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9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA  
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12 LIBERTY MEDIA HOLDINGS, LLC, a  
13 California Corporation,

14 Plaintiff,

15 vs.

16 ROONEY ROCKS, an alias; DOE  
INDIVIDUALS 1-100; DOE  
COMPANIES 1-100,

17 Defendants.

CASE NO. 10cv2395 WQH (RBB)

ORDER

18 HAYES, Judge:

19 On September 13, 2010, Plaintiff filed the Complaint. (ECF No. 1). To date, a proof  
20 of service has not been filed for Defendant Rooney Rocks.<sup>1</sup>

21 On October 31, 2011, this Court issued an Order stating:

22 Federal Rule of Civil Procedure 4 requires that a summons and  
complaint be served 'within 120 days after the complaint is filed.' Fed.  
23 R. Civ. P. 4(m). If a plaintiff fails to serve the summons and complaint  
within that time limit, the court may dismiss the action without  
24 prejudice after notice to the plaintiff. *Id.*

25 This Order constitutes notice to Plaintiff that the Court will  
dismiss this action without prejudice on or after **Monday November**  
26 **21, 2011**, unless, no later than that date, Plaintiff files either (1) proof  
that service of the summons and complaint was timely effectuated *or*

27  
28 <sup>1</sup> Plaintiff also named Spankwire, LTD and Manwin Canada as defendants; however,  
Plaintiff has voluntarily dismissed its claims against Defendants Spankwire, LTD and Manwin  
Canada.

1 (2) a declaration under penalty of perjury showing good cause for  
2 failure to timely serve the Defendant with the summons and complaint  
3 accompanied by a motion for leave to serve process outside of the 120  
4 day period.

(ECF No. 6 at 1-2).

5 To date, Plaintiff has failed to file either proof that service of the summons and  
6 complaint was timely effectuated or a declaration under penalty of perjury showing good cause  
7 for failure to timely serve Defendant Rooney Rocks. Accordingly, this action is dismissed  
8 without prejudice. The Clerk shall close the case.

**IT IS SO ORDERED.**

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10 DATED: 11/21/11

  
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12 **WILLIAM Q. HAYES**  
United States District Judge